

SENATE BILL 904

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P2

2004 Regular Session  
4r1018  
CF 4r1019

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By: **The President (By Request - Administration)**

Introduced and read first time: March 1, 2004

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Small Business Procurement Contracts - Reserve Preference**

3 FOR the purpose of establishing a Small Business Reserve Program; designating the  
4 types of procurements in which the Small Business Reserve Program may  
5 participate; requiring certain procurement units to achieve a certain percentage  
6 of small business procurement contracts under the Program; requiring the  
7 Department of General Services to establish certain procedures to assist small  
8 businesses; requiring certain procurement units to report to the Board of Public  
9 Works by a certain date; defining certain terms; and generally relating to small  
10 business procurement contracts.

11 BY adding to

12 Article - State Finance and Procurement

13 Section 14-501 through 14-505, inclusive, to be under the new subtitle

14 "Subtitle 5. Small Business Reserve Program"

15 Annotated Code of Maryland

16 (2001 Replacement Volume and 2003 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - State Finance and Procurement**

20 **SUBTITLE 5. SMALL BUSINESS RESERVE PROGRAM.**

21 14-501.

22 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
23 INDICATED.

24 (B) "DESIGNATED PROCUREMENT UNIT" MEANS:

25 (1) THE STATE TREASURER;

26 (2) THE DEPARTMENT OF BUDGET AND MANAGEMENT;

- 1 (3) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;
- 2 (4) THE DEPARTMENT OF THE ENVIRONMENT;
- 3 (5) THE DEPARTMENT OF GENERAL SERVICES;
- 4 (6) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE;
- 5 (7) THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT;
- 6 (8) THE DEPARTMENT OF HUMAN RESOURCES;
- 7 (9) THE DEPARTMENT OF JUVENILE SERVICES;
- 8 (10) THE DEPARTMENT OF LABOR, LICENSING, AND REGULATION;
- 9 (11) THE DEPARTMENT OF NATURAL RESOURCES;
- 10 (12) THE STATE DEPARTMENT OF EDUCATION;
- 11 (13) THE DEPARTMENT OF STATE POLICE;
- 12 (14) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL  
13 SERVICES;
- 14 (15) THE DEPARTMENT OF TRANSPORTATION;
- 15 (16) THE UNIVERSITY SYSTEM OF MARYLAND;
- 16 (17) THE MARYLAND PORT COMMISSION;
- 17 (18) THE STATE RETIREMENT AGENCY;
- 18 (19) THE MARYLAND INSURANCE ADMINISTRATION;
- 19 (20) THE INJURED WORKERS' INSURANCE FUND;
- 20 (21) THE MARYLAND STADIUM AUTHORITY;
- 21 (22) THE MARYLAND PORT AUTHORITY;
- 22 (23) THE STATE LOTTERY AGENCY; AND
- 23 (24) THE MORGAN STATE UNIVERSITY.

24 (C) "SMALL BUSINESS" MEANS A BUSINESS, OTHER THAN A BROKER, THAT  
25 MEETS THE FOLLOWING CRITERIA:

- 26 (1) THE BUSINESS IS INDEPENDENTLY OWNED AND OPERATED;
- 27 (2) THE BUSINESS IS NOT A SUBSIDIARY OF ANOTHER BUSINESS;

1 (3) THE BUSINESS IS NOT DOMINANT IN ITS FIELD OF OPERATION;

2 (4) THE WHOLESALE OPERATIONS OF THE BUSINESS DID NOT EMPLOY  
3 MORE THAN 50 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT EXCEED  
4 \$2,000,000 IN ITS MOST RECENTLY COMPLETED FISCAL YEAR;

5 (5) THE RETAIL OPERATIONS OF THE BUSINESS DID NOT EMPLOY MORE  
6 THAN 25 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT EXCEED  
7 \$1,000,000 IN ITS MOST RECENTLY COMPLETED FISCAL YEAR;

8 (6) THE MANUFACTURING OPERATIONS OF THE BUSINESS DID NOT  
9 EMPLOY MORE THAN 100 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID  
10 NOT EXCEED \$1,000,000 IN ITS MOST RECENTLY COMPLETED FISCAL YEAR;

11 (7) THE SERVICE OPERATIONS OF THE BUSINESS DID NOT EMPLOY  
12 MORE THAN 100 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT  
13 EXCEED \$1,000,000 IN ITS MOST RECENTLY COMPLETED FISCAL YEAR; AND

14 (8) THE CONSTRUCTION OPERATIONS OF THE BUSINESS DID NOT  
15 EMPLOY MORE THAN 50 PERSONS, AND THE GROSS SALES OF THE BUSINESS DID NOT  
16 EXCEED \$4,000,000 IN ITS MOST RECENTLY COMPLETED FISCAL YEAR.

17 (D) "SMALL BUSINESS RESERVE" MEANS THOSE PROCUREMENTS THAT ARE  
18 LIMITED TO RESPONSES FROM SMALL BUSINESSES UNDER § 14-502(B) OF THIS  
19 SUBTITLE.

20 14-502.

21 (A) THIS SUBTITLE APPLIES TO ALL PROCUREMENTS BY A DESIGNATED  
22 PROCUREMENT UNIT.

23 (B) A DESIGNATED PROCUREMENT UNIT SHALL STRUCTURE ITS  
24 PROCUREMENT PROCEDURES TO ACHIEVE A MINIMUM OF 10 PERCENT OF THE  
25 UNIT'S TOTAL DOLLAR VALUE OF GOODS, SUPPLIES, SERVICES, MAINTENANCE,  
26 CONSTRUCTION, CONSTRUCTION-RELATED SERVICES, ARCHITECTURAL SERVICE,  
27 AND ENGINEERING SERVICE CONTRACTS TO BE MADE DIRECTLY TO SMALL  
28 BUSINESSES.

29 14-503.

30 (A) THE DEPARTMENT OF GENERAL SERVICES SHALL ADOPT REGULATIONS  
31 TO ESTABLISH PROCEDURES FOR COMPILING AND MAINTAINING A COMPREHENSIVE  
32 BIDDER'S LIST OF QUALIFIED SMALL BUSINESSES THAT SHALL BE POSTED ON THE  
33 DEPARTMENT'S WEBSITE.

34 (B) EACH DESIGNATED PROCUREMENT UNIT SHALL ENSURE COMPLIANCE  
35 WITH THE REGULATIONS SET FORTH IN SUBSECTION (A) OF THIS SECTION.

1 14-504.

2 (A) ANY PROCUREMENT BY A DESIGNATED PROCUREMENT UNIT OF GOODS,  
3 SUPPLIES, SERVICES, MAINTENANCE, CONSTRUCTION, CONSTRUCTION-RELATED  
4 SERVICES, ARCHITECTURAL SERVICES, AND ENGINEERING SERVICES SHALL BE  
5 ELIGIBLE FOR DESIGNATION FOR THE SMALL BUSINESS RESERVE.

6 (B) A SOLICITATION FOR PROCUREMENT THAT HAS BEEN DESIGNATED FOR A  
7 SMALL BUSINESS RESERVE SHALL BE PUBLISHED IN THE SAME MANNER AS  
8 REQUIRED FOR AN INVITATION FOR BIDS AS SET FORTH IN § 13-103(C) OF THIS  
9 ARTICLE.

10 (C) THE PROCUREMENT OFFICER OF A DESIGNATED PROCUREMENT UNIT  
11 SHALL AWARD A PROCUREMENT CONTRACT DESIGNATED FOR A SMALL BUSINESS  
12 RESERVE TO THE SMALL BUSINESS THAT SUBMITS A RESPONSIVE BID THAT:

13 (1) IS THE LOWEST BID PRICE;

14 (2) IF THE INVITATION FOR BIDS SO PROVIDES, IS THE LOWEST  
15 EVALUATED BID PRICE; OR

16 (3) IS THE BID OR PROPOSAL MOST FAVORABLE TO THE STATE WITHIN  
17 THE SMALL BUSINESS RESERVE.

18 14-505.

19 (A) WITHIN 90 DAYS AFTER THE END OF EACH FISCAL YEAR, EACH  
20 DESIGNATED PROCUREMENT UNIT SHALL SUBMIT A REPORT ON THE OPERATION  
21 AND EFFECTIVENESS OF THE SMALL BUSINESS RESERVE PROGRAM TO THE BOARD  
22 OF PUBLIC WORKS.

23 (B) WITHIN 60 DAYS AFTER RECEIPT OF ALL REPORTS REQUIRED UNDER  
24 SUBSECTION (A) OF THIS SECTION, THE BOARD OF PUBLIC WORKS SHALL COMPILE  
25 THE INFORMATION AND REPORT ON THE ENTIRE SMALL BUSINESS RESERVE  
26 PROGRAM TO THE LEGISLATIVE POLICY COMMITTEE, SUBJECT TO § 2-1246 OF THE  
27 STATE GOVERNMENT ARTICLE.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect October 1, 2004.